HON'BLE SRI G.S. SINGHVI,

CHIEF JUSTICE

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W.P. NO. 3333 OF 1995.

BETWEEN:

Lalit Mohan Lal, S/o Sri Shamlal,

R/o 5-9-35/3, Bashir Bagh,

Hyderabad. **…..**

PETITIONER.

AND

1. Commissioner, Land Reforms,

Station Road, Nampally,

Hyderabad,

and another.

….. RESPONDENTS.

:: ORDER ::

Counsel for the petitioner : Mr. K.K. Waghray.

Counsel for the respondents : G.P. for Revenue.

06th JANUARY, 2006.

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Writ Petition No.3333 of 1995

This is a petition for quashing order dated 10.1.1995 passed by Commissioner of Land Reforms and Urban Land Ceilings (hereinafter described as 'the appellate authority') whereby the appeal filed by the petitioner under Section 33 of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act') was dismissed.

The case of the petitioner, in brief, is that he filed declaration under Section 6(1) of the Act detailing the lands held by him. As per the declaration, the petitioner held the following parcels of land:

Item	Village	Extent in
Building vacant land	Ward No.,	Sq. Mtrs.
Pl.No.	S.No.	T.S.No. Locality
1. Non-dwelling unit		
(Factory shed)	B-14,	Balanagar 833.00
2. Dwelling unit	H.No.5-9-35/3B	
Basheerbagh		400.00
3. Dwelling unit	H.No.1-11-90	220-00
to	1-11-93	
4. Vacant land	a) S.No.76,	7100-00
Erragadda.		
5. Vacant land	b) S.No.984,	4552-36
Kukatpally		

Total Sq. Meters		13,105-36

The Special Officer and Competent Authority, Urban Land Ceilings, Hyderabad (hereinafter described as 'the competent authority) prepared draft statement proposing to determine 8540.36 square meters of land as surplus. The petitioner filed objections to contest the draft statement. He averred that he had entered into an agreement of sale on 9.11.1980 with Balaji Cooperative Housing Society in respect of lands in Sy.No.76 of Erragadda, that an application under Section 20 of the Act seeking exemption is pending with the Government and that he does not hold any

surplus land. The relevant extracts of the objection petition filed by the petitioner read as under:

> "Regarding the vacant land in Sy.No.76, Erragadda, Fatehnagar Village, Hyderabad West, Andhra Pradesh, I have got a half share in it and the extent mentioned in the draft statement towards my share is 3988 square meters. There is no dispute with regard to the measurements. But, in respect of this property, I have entered into an agreement to sell on 9th November, 1980, with Sri Balaji Cooperative Housing Society, Fatehnagar, Hyderabad. The agreement has been entered into keeping in view the guidelines issued by the Government in G.O.Ms.No.4270 dated 10.09.1980. An application under Section 20 of the Act for exemption together with the necessary documents has been filed with the Government of Andhra Pradesh, after the agreement was entered into which are already on records. Orders on the said application are expected shortly. The purchasers – society has paid the part of the price and has been put in possession of the said property in part performance of the agreement to sell. Copies of the agreement and other documents have already been filed along with the application for exemption. In the circumstances, it is requested that this property should also be excluded from my holding.
>
> Regarding the land bearing Sy.No.984, Kukatpally village, Hyderabad, admeasuring two acres ten guntas, I have got half a share in it and the area shown as belonging to me viz., 4522.36 square meters is not disputed."

After hearing the petitioner, the competent authority passed detailed order dated 30.12.1981 and held that the petitioner was having 8540.36 square meters of excess land. Accordingly, final statement was issued under Section 9 of the Act.

The petitioner challenged the order of the competent authority by filing an appeal under Section 33 of the Act, which was partly allowed. The appellate authority reduced the surplus land of the petitioner by 1000 square meters by recording the following observations:

> "However, it is evident from the impugned order that an extent of 1446.30 square meters which was found to be area protected under Section 4(11) of the Act was nevertheless included in the holding of the appellant for the purpose of the Act, apparently in view of the provisions under Section 4(9) of the Act. As per the interpretation placed by the Supreme Court on the said and connected provisions of the Act in its decision in Meera Gupta's case, reported in AIR 1992

SC 1567, such protected area cannot be treated as vacant land within the meaning of Section 2(q) of the Act and has to be altogether excluded from the holding of a person for the purpose of the Act. Accordingly the surplus holding of the appellant which was determined to be 8540.36 square meters in the impugned order has to be reduced by 1000 square meters which has to be allowed towards the extent retainable under Section 4(1)(b) of the Act. Subject to this modification, the order of the Competent Authority is confirmed.
"

Learned counsel for the petitioner argued that the orders passed by the competent authority and the appellate authority should be declared as vitiated by error of law and quashed, because both the authorities overlooked the fact that the application filed by his client under Section 20 of the Act was pending, and, till the decision of that application, the surplus area case could not have been decided.

The learned Government Pleader for Assignment submitted that the application filed by the petitioner under Section 20 of the Act had already been rejected and, therefore, there was no impediment in deciding his surplus area case.

In the context of the submission made by the learned Government Pleader, I enquired from the learned counsel for the petitioner whether or not the application filed by his client under Section 20 of the Act has been decided. In reply, Shri Waghray fairly stated that the application of his client has been dismissed. He also conceded that the petitioner did not file application under Section 21 of the Act for grant of exemption.

In view of the above, it must be held that the competent authority did not commit any illegality by determining the surplus area case of the petitioner and the appellate authority rightly dismissed the appeal.

No other point has been argued.

For the reasons mentioned above, the Writ Petition is dismissed.

Before parting with the case, I deem it proper to mention that Writ Petition No.10020 of 2002 filed by the petitioner's brother Shri Rooplal Shah, questioning similar orders passed by the competent authority and the appellate authority, was

dismissed by another Single Bench on 27th September, 2005.

Dated: 6.01.2006 G.S. SINGHVI, CJ

Vrk/vtv

HON'BLE SRI G.S. SINGHVI,

CHIEF JUSTICE

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Dt: 06-01-2006.